

February 24, 2012

Yukon Telephone Company, Inc.

## **I. Introduction.**

The Alaska Rural Coalition<sup>1</sup> (“ARC”) files its Comments in this proceeding pursuant to the Public Notice issued by the Federal Communications Commission (“Commission”) on February 2, 2012.<sup>2</sup> The ARC is concerned that the Commission may consider the procedures and program requirements developed for the Mobility I auction as the template for the future Mobility II processes for awarding funds to rural areas. The reverse auction procedures contemplated for Auction 901 are problematic for the small, rural carriers serving Remote Alaska and will require substantial modification before applying them to any Mobility II proceeding.

The ARC membership consists of essentially all of the rate of return incumbent rural local exchange carriers (“RLECs”) in Alaska,<sup>3</sup> who share unified interests regarding the impacts of further proposed changes in high cost support for the state. The ARC urges the Commission to not adopt procedures that will run a serious risk of precluding small, rural carriers from accessing the new support funds designed to spur investment in mobile voice and broadband services.

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<sup>1</sup> The ARC is composed of Adak Eagle Enterprises LLC; Arctic Slope Telephone Association Cooperative, Inc.; Bettles Telephone, Inc.; Bristol Bay Telephone Cooperative, Inc.; Bush-Tell, Inc.; Circle Telephone & Electric, LLC; Cordova Telephone Cooperative, Inc.; Copper Valley Telephone Cooperative, Inc.; City of Ketchikan, Ketchikan Public Utilities; Matanuska Telephone Association, Inc.; OTZ Telephone Cooperative, Inc.; Interior Telephone Company; Mukluk Telephone Company, Inc.; Alaska Telephone Company; North Country Telephone Inc.; Nushagak Electric and Telephone Company, Inc.; The Summit Telephone and Telegraph Company, Inc. and Yukon Telephone Company, Inc.

<sup>2</sup> See *Comment Sought on Competitive Bidding Procedures for Auction 901 and Certain Program Requirements*, Public Notice, DA-12-121 (Feb. 2, 2012) (“*Phase I Public Notice*”).

<sup>3</sup> The other ILECs in the state are the ACS companies, which are all price cap, and United Utilities, Inc., a rural ILEC that is wholly owned and controlled by GCI.

## **II. The Mobility I Reverse Auction Is an Experiment and Long Term Results Will Take Years to Evaluate.**

The Mobility Phase I reverse auction will be the first such attempt by the Commission to assign high cost support in this manner. As such, this auction is an experiment that will allow the Commission to gather data to determine the viability of reverse auctions to award high cost support. The award of the funds is only the first step in a process to determine if the auction achieves its intended result, namely the deployment of adequate, viable mobile voice and broadband services in the eligible underserved areas. However, it will be several years before the Commission will have an adequate record to determine how effective a reverse auction process will be in awarding high cost support, since it will take that long for carriers receiving support to construct and operate networks to serve the areas subject to the award. The Commission's timeline for deployment of Mobility Fund Phase II funding suggests that the Commission will not have the benefit of a complete record on the viability of a reverse auction process before the Commission begins awarding funds under Mobility II.

The ARC shares the skepticism of many carriers serving rural areas that a reverse auction will not provide the critical funding in high cost rural areas, especially the remote, tribal areas of Alaska that lack a road system or middle mile infrastructure that is taken for granted in the rest of the country.<sup>4</sup> The ARC urges the Commission to use caution when determining the rules for deployment of Mobility Fund Phase II, and be careful not to assume that any procedures or program requirements adopted for Mobility Fund Phase I should be automatically applicable to the award of high cost support in Mobility Fund Phase II, especially in the remote tribal areas of Alaska. We note that some carriers in Alaska are developing cost models that could serve as an

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<sup>4</sup> *Comments of General Communication Inc.*, WC Docket No. 10-90 et al. (Jan. 18, 2012) ("*GCI USF Comments*") at 14-16.

alternative to determining eligibility for Mobility II funding, and these approaches may result in a more effective means of targeting Mobility support in the remote areas of Alaska.<sup>5</sup>

**III. Mobility Fund Phase I Reverse Auction Procedures Should Not Set Precedent for Mobility Fund Phase II or Connect America Fund High Cost Support Distribution.**

The Commission notes that the parameters of Mobility Fund Phase I “does not prejudice the approach to be taken with respect to Phase II of the Mobility Fund or the Connect America Fund generally.”<sup>6</sup> Although the ARC appreciates the reassurance, it remains deeply concerned that many of the procedures established for the Phase I auction will be applied to later determinations of high cost support. Several assumptions for the Phase I auction raise significant issues for the allocation of support to the highest cost areas in the most desperate need of support.

The Phase I auction rules are designed to provide support to the lowest cost per road mile.<sup>7</sup> Targeting support to areas based on units served by road mile will not direct support toward many, if any, high cost locations in Alaska. As GCI noted in its January 18, 2012 comments on the *Transformation FNPRM*, the remote areas of Alaska are lacking in road infrastructure and so the current rules as contemplated by Phase I appear to be directing support away from eligible locations in Alaska that could otherwise fulfill the requirements for support.<sup>8</sup>

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<sup>5</sup> See *Comments of Alaska Communications System Group, Inc.*, WC Docket No. 10-90 et al. (Jan. 18, 2012) (“*ACS USF Comments*”) at 16–19; *GCI USF Comments* at 14.

<sup>6</sup> *Phase I Public Notice* at para. 68 n.76 (discussing the use of an urban rate standard for auction winners).

<sup>7</sup> *Phase I Public Notice* at para. 21. “In Auction 901, the Bureaus will use road miles as the basis for calculating the number of units in each eligible census block for purposes of comparing bids and measuring the performance.” *Id.*

<sup>8</sup> See *GCI USF Comments* at 14.

The criteria for awarding support for the 2013 tribal auction, Phase II and the Connect America Fund cannot rely on the lowest cost per road mile, or no meaningful support will be provided to the high cost, remote areas that are in most need of these funds. The Commission's goal to expand deployment of mobile voice and broadband service should not exclude the most rural and remote areas.

**III. Criteria for Eligibility to Participate in the Mobility Process Should Not Preclude Small, Rural Carriers.**

The program requirements outlined in the *Phase I Public Notice* appear to heavily favor awards to very large carriers that can meet the established criteria. For example, the Irrevocable Line of Credit that a carrier must have in place represents a hurdle that only very large carriers are likely to meet.<sup>9</sup> The ARC members have discussed this requirement with their lenders, CoBank, Rural Telephone Finance Corporate ("RTFC") and Rural Utility Service ("RUS") and to date they have not found any lender willing to extend this type of arrangement.<sup>10</sup> The Commission should consider alternate means of providing accountability for the use of the awarded funds in remote, tribal areas such as Alaska so that carriers currently serving in the area will not be precluded from participating in the Mobility programs.

The imposition of a harsh auction default payment for failure to fulfill auction obligations fall disproportionately on small, rural carriers.<sup>11</sup> The Commission seeks comment on a default

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<sup>9</sup> See *Comments of the Alaska Rural Coalition*, WC Docket No. 10-90 et al. (Jan. 18, 2012) ("ARC USF Comments") at 20-21 (discussing the difficulty for small rural carriers to obtain a Letter of Credit).

<sup>10</sup> See *id.*

<sup>11</sup> *Phase I Public Notice* at paras. 60-61.

penalty of up to a maximum of 20% of the total defaulted bid.<sup>12</sup> The Commission proposes using a rate of 5% will protect the Commission against the costs incurred in a default.<sup>13</sup> The Commission is concerned that bidders need sufficient incentive “to fully inform themselves of the obligations associated with participation.”<sup>14</sup> The ARC respectfully submits that while this is true for many aspects of the auction process, the novelty of a reverse auction, the award of high cost support and the harsh financial obligations that follow winning the award (obtaining a LOC) suggest that a less punitive approach is warranted. A small carrier who wins its auction, but cannot obtain a LOC should not be subject to a default payment for failure to comply.

#### IV. Conclusion.

The award of high cost support to promote the deployment of mobile voice and broadband services is an essential component of the Commission’s reform of universal service. Small carriers serving rural America deserve an equal opportunity to participate in the Mobility Fund Phase I Auction and the mobility funding proceedings that will follow. The Commission must be careful not to structure these funding mechanisms in a manner that will preclude funding in high cost areas. Such an approach is contrary to the spirit and letter of Universal Service. Small carriers are well poised to play an important role in the deployment of mobile voice and broadband services, but to impose onerous obligations and harsh penalties will leave high cost areas without the benefit the Commission identified as critical to the mutual success of the country.

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<sup>12</sup> See *Phase I Public Notice* at para. 61.

<sup>13</sup> See *id.*

<sup>14</sup> *Id.*

Respectfully submitted on this 24<sup>th</sup> day, February 2012.

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